

1 D. GEORGE SWEIGERT, C/O
2 GENERAL DELIVERY
MOUNT SHASTA, CALIF 96067

3 IN THE UNITED STATES DISTRICT COURT
4 FOR THE DISTRICT OF SOUTH CAROLINA

5 D. GEORGE SWEIGERT

6 Plaintiff,

7 vs.

8 JASON GOODMAN

9 Defendant

10 Case No.: 2:18-cv-01633-RMG-BM

11 PLAINTIFF'S REPLY TO DEFENDANT'S
12 MEMORANDUM IN SUPPORT OF MOTION TO
13 DISMISS (DOC. 9-1, 08/03/2018)

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15 DEFENDANT'S MEMORANDUM TO SUPPORT MOTION TO DISMISS

16 NOW COMES THE PRO SE plaintiff, a layman non-attorney acting in the public interest as a private attorney general, to submit this **REPLY** to Defendant Goodman's MEMORANDUM IN SUPPORT OF MOTION TO DISMISS (Entry 9-1, 08/03/2018).

17 INTRODUCTION

18 The avowed conspiracy theorist Jason Goodman operates several social media outlets that form a constellation of business enterprises known as "CrowdSource The Truth" (CSTT). On June 14, 2017 the CSTT team (comprising **Goodman, George Webb Sweigert, Okey Marshall Richards and Joe Napoli**) orchestrated an on-air live broadcast to 2,000+ viewers on the YouTube channel known as "Jason Goodman". The series of cascading events triggered by this YouTube broadcast led to the closure of the Port of Charleston due to a radiological bomb threat. The radiological emergency response to the bomb threat was a multi-jurisdiction and multi-agency response similar to that for a crashed jet airliner. This is the underlying controversy which this litigation rests.

FACTS

The focus of the 06/14/2017 YouTube broadcast was the container ship known as the MEMPHIS MAERSK and its alleged cargo of a radiological dispersion device (**R.D.D.**) commonly known as a “dirty bomb”. The dirty bomb concept is a favorite of terrorist organizations as the dirty bomb has the potential to terrorize a population due to the nature of the explosion shrouded with radiological materials (usually Cesium 137).

Goodman and his employee, room-mate, co-anchor and fellow associate George Webb Sweigert developed an interest in the MEMPHIS MARSK three weeks prior to the closure of the Wando marine terminal in the Port of Charleston, S.C.

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PLAINTIFF'S STANDING AS PRIVATE ATTORNEY GENERAL

In the Defendant's MEMORANDUM (Entry 9-1, 08/03/2018) Goodman asserts "Plaintiff's has not standing, is not a resident of South Carolina and was not impacted by the alleged action, which evidence indicates, he and his associates deliberately caused to occur [sic]". NOTE: as a matter of legal record, the undersigned DENIES the notion of Goodman's baseless allegation in all its forms.

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"In the role of **PAG** the plaintiff is seeking enforcement of the applicable statutes and laws that have been violated by the wrong-doers in the past and the present. The **PAG** doctrine is intrinsically baked-in to federal racketeering laws and allows augmentation of prosecutorial gaps (see: a private citizen's standing to sue for vindication of a public objective. Associate Industries v. Ickes (2d Cir. 1943) 134 F.2d 694, 704 (2d Cir.); Comment (1974) Note 144 U.Pa.L.Rev. 636, 658).

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The plaintiff relies on the wisdom of the U.S. Supreme Court to amplify the PAG standing to seek enforcement of applicable laws, statutes, regulations and policy, noting that “private enforcement . . . provides a necessary supplement” **prosecutorial gaps** in public law enforcement. J.I. Case Co. v. Borak, 377 U.S. 426, 432 (1964) ”

As seen from the foregoing excerpts from the Amended Complaint (Entry 5, 06/29/2018) the plaintiff has invoked in the private attorney general (**PAG**) doctrine of the RICO Act. To amplify West's Encyclopedia of

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11 Caveat: it is instructive to note remedial aspects of PAG suits, as noted in the article “Private Attorneys
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15 The remedial nature of PAG provisions advances public interest lawsuits. This is amplified by
 16 ALTMANN v. CITY OF AGOURA HILLS CITY COUNCIL, Court of Appeals of California, Second Appellate
 17 District, Division Four (2008)[unpublished]. Quoted in relevant part:

18 The term private attorney general was coined by Judge Jerome Frank in the context of a challenge to a
 19 private persons standing to bring a lawsuit to vindicate the public interest. (County of Inyo v. City of Los
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 20 694, 704.) It is meant to convey the concept that a private citizen may stand in the shoes of the Attorney
 21 General, not in the sense of an attorney representing a party in court, but in the sense of a government
official advancing the public interest in a lawsuit. Indeed, in most instances, a private attorney general is a
 22 private citizen represented by counsel in court. [emphasis added]

23
 24 As the underlying controversy on this lawsuit, the public distress, alarm and business disruption caused the
 25 “dirty bomb hoax” of 06/14/2017 (which impacted a dozen law enforcement agencies, the Port of Charleston and
 26 surrounding communities) this is a matter of public concern. It has been alleged that this sensationalized publicity
 27 stunt was orchestrated to increase the opportunities for economic growth for Goodman and his CSTT team mates.

1 The entire fraudulent publicity stunt is alleged to be an artifact of fraudulent messaging (for profit) that traversed the
 2 interstate wires of the Internet.

3 The racketeering accusations against Goodman's and his CSTT team's on-going efforts to defraud
 4 members of the public of credit card transaction via the wires of the interstate Internet demonstrate an on-going
 5 public interest in this matter. These on-going efforts mimic the fraud perpetrated on the U.S. Coast Guard for the
 6 purposes of gaining publicity and other pecuniary benefits.

7 **This is a public interest lawsuit.** It matters not if the Plaintiff has been personally injured by the
 8 underlying controversy or is the undersigned is resident of South Carolina.

9
 10 ***CLAIMS STATED AND RELIEF SOUGHT IN PLAINTIFF'S COMPLAINT***

11 In essence, filing a motion to dismiss alleges there is some sort of critical deficiency with the
 12 plaintiff's complaint, the claims alleged in the complaint, or the actual procedure of how the lawsuit was
 13 initiated and, correspondingly, requests that specific claims alleged or the entire lawsuit be dismissed.

14 Defendant Goodman apparently asserts is his so-called "motion" (unlabeled as such) that the Plaintiff has
 15 failed to state any actionable claims in the Amended Complaint (Entry 5, 06/29/2018). "Plaintiff's claim must be
 16 dismissed with prejudice because his legal claims are without merit". See Defendant's MEMORANDUM IN
 17 SUPPORT OF MOTION TO DISMISS (Entry 9-1, 08/03/2018). This is the totality of Goodman's argument
 18 concerning the issue of supposedly "failure to state a claim" as the heading of the MEMORANDUM (Entry 5,
 19 06/29/2018) indicates.

20 A motion requesting dismissal based on failure to state a claim is alleging that under no circumstances
 21 could the claim for relief be granted against the defending party. It is "only the extraordinary case in which a
 22 dismissal is proper" for failure to state a claim. See United States v. City of Redwood City, 640 F.2d 963, 966
 23 (9th Cir. 1981). A court may dismiss a complaint as a matter of law only if the complaint: (1) lacks a
 24 cognizable legal theory; or (2) fails to contain sufficient facts to support a cognizable legal claim. Robertson v.
 25 Dean Witter Reynolds, Inc., 749 F.2d 530, 534 (9th Cir. 1984).

26 Defendant's conclusory, vague and ambiguous statements in the so-called "motion" offer no support of his
 27 argument or claim. Defendant's proposition is that the Court dismiss this action based on wild accusation of some

1 conspiracy involving the undersigned. NOTE: For the record the undersigned denies any and all allegations,
 2 insinuations and accusations made by Goodman in the MEMORANDUM (Entry 5, 06/29/2018).

3 Assuming *arguendo* that Goodman's malformed pleading is some type of **FRCP Rule 12(b)(6)** request
 4 then the “[c]ourts must consider the complaint in its entirety, as well as other sources courts ordinary examine when
 5 ruling on Rule 12(b)(6) motion to dismiss [.]” Dunn v. Castro, 621 F.3d 1196, 1206 n.6 (quoting Tellabs, Inc. v.
 6 Makor Issues & Rights, Ltd., 551 U.S. 308, 322 (2007)). See also Magulta v. Samples, 375 F.3d 1269, 1274-75 (11th
 7 Cir. 2004) (when reviewing a motion to dismiss for failure to state a claim, courts should read the complaint in its
 8 entirety); 5 Wright & Miller, Federal practice and Procedure § 1286 (3d ed. 2004).

9 Usually when a court is asked to weigh a motion filed pursuant to Rule 12(b)(6) it is generally confined to
 10 the four corners of the pleadings. See Wilchcombe v. TeeVee Toons, Inc. 555 F.3d 949, 959 (11th Cir. 2009).

11 Apparently the Defendant expects this Court to conduct his legal research by a legal review of the totality
 12 of the Amended Complaint (Entry 5, 06/29/2018) while simultaneously providing no legal support for the
 13 proposition that the Plaintiff has failed to state an actionable claim.

14 Consideration of the Amended Complaint (Entry 5, 06/29/2018) as a whole demonstrates that it meets the
 15 requirements established under the Federal Rules. “[A] complaint must contain sufficient factual matter ... to ‘state
 16 a claim for relief that is plausible on its face.’” Ashcroft v. Iqbal, 129 S.Ct. 1937, 1949 (2009) (quoting Bell
 17 Atlantic Corp. v. Twombly, 550 U.S. 544, 570 (2007)).

18 The Plaintiff's Amended Complaint (Entry 5, 06/29/2018) presents a detailed recitation of Defendant's
 19 alleged racketeering activities, violations of the **Computer Fraud and Abuse Act** (CFAA), attempts to defraud the
 20 U.S. government, issuance of threats that violate the **Terrorist Hoax Improvement Act**, etc. These recitations
 21 more than satisfy federal pleading requirements. A review of the entire Amended Complaint (Entry 5, 06/29/2018)
 22 demonstrates that in no way or manner has the Plaintiff upon mere legal conclusions but contains a detailed account
 23 of the Defendant's illegal practices which establish liability under the federal **RICO Act** (at a minimum).

24 “A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the
 25 reasonable inference that the defendant is liable for the misconduct alleged.” Ashcroft v. Iqbal, 566 U.S. 662, 678,
 26 129 S.Ct. 1937, 173 L.Ed.2d 868 (2009).

Under FRCP Rule 8(a)(2), a pleading must contain “‘a short and plain statement of the claim showing that the pleader is entitled to relief’ in order to ‘give the defendant fair notice of what the ... claim is and grounds upon which it rests.’” *Twombly*, 550 U.S. at 555 (citations omitted). In *Twombly*, the U.S. Supreme Court explained that “[t]o survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’” *Iqbal*, 129 S. Ct. at 1949 (citation omitted).

As the Eleventh Circuit has explained, *Twombly / Iqbal* principles require that a complaint’s allegations be “enough to raise to relief above the speculative level.” *Speaker v. U.S. Dep’t of Health and Human Services Centers for Disease Control and Prevention*, 623 F.3d 1371, 1380 (11th Cir. 2010). Plaintiff has far exceed his responsibilities articulated by the Eleventh Circuit *Twombly / Iqbal* principles.

The federal rules only require that the plaintiff put the defendant on notice as to what the legal claim is and the grounds upon which the claim rests. *Ascon Properties, Inc. v. Mobile Oil Co.*, 866 F.2d 1149, 115 (9th Cir. 1989).

The Defendant’s so-called “motion” is silent on all the matters that are required in such motions. In fact, the pleading (MEMORANDUM (Entry 9-1, 08/03/2018)) is little more than a Post-It Note type of response. A fair reading of the Defendant’s “motion” gives no inkling as to what legal standards are relied upon by Goodman.

The Defendant cannot and does not explicitly contend that the theories, facts and/or allegations presented in the Amended Complaint (Entry 5, 06/29/2018) are defective. Rather, Defendant makes stunningly overly broad conclusory assertions devoid of any concrete rationale that would to support the insinuations in the Defendant’s “motion”.

CONCLUSION

Defendant’s so-called “motion” (MEMORANDUM (Entry 9-1, 08/03/2018)) is defective and should be rejected as it fails to comply with **FRCP Rule 12(b)**. Nonetheless, if the Court elects to consider the motion it should be rejected as it only presents conclusory, vague and ambiguous statements that are devoid of legal argument and justification for such a heavy sanction as dismissal. Almost the entirety of the Defendant’s so-called “motion” contains unfounded, baseless, meritless and vexatious slurs, insinuations and slanderous allegations.

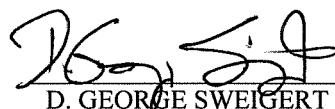
Defendant’s “motion” must be denied.

If the Court entertains the Defendant's "motion" then the Plaintiff should be allowed to amend the complaint by leave of the court. Where the defendant merely files a motion to dismiss for failure to state a claim without an answer, plaintiff then would be entitled to amend his complaint as a matter of right.

PRAYER

For the reasons described above Mr. Goodman's MEMORANDUM pleading (Doc. 9-1, 08/03/2018) should **denied** as it provides an insufficient defense, within a document that is redundant, immaterial, impertinent and scandalous in nature.

Dated this day of August 10, 2018



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12 CERTIFICATE OF SERVICE

13 On this day, August 10, 2018, I have caused to be placed into the U.S. Postal Service true copies of the
14 attached pleadings (with First Class postage affixed) to the following parties.

15
16 Clerk of the Court
17 U.S. District Court
17 Matthew J. Perry, Jr. Courthouse
18 901 Richland Street
18 Columbia, South Carolina 29201

19 Jason Goodman
20 252 7th Avenue #6S
20 New York, NY 10001

21 I hereby attest under the penalties of perjury that the foregoing is true and accurate.

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 14 litigation.” Page 604, Vol. 103:589, 103 Mich. L. Rev. 589 (2005).

15 The remedial nature of PAG provisions advances public interest lawsuits. This is amplified by
 16 ALTMANN v. CITY OF AGOURA HILLS CITY COUNCIL, Court of Appeals of California, Second Appellate
 17 District, Division Four (2008)[unpublished]. Quoted in relevant part:

18 The term private attorney general was coined by Judge Jerome Frank in the context of a challenge to a
 19 private persons standing to bring a lawsuit to vindicate the public interest. (County of Inyo v. City of Los
Angeles (1978) 78 Cal.App.3d 82, 88, fn. 1, citing Associated Industries v. Ickes (2d Cir. 1943) 134 F.2d
 20 694, 704.) It is meant to convey the concept that a private citizen may stand in the shoes of the Attorney
 21 General, not in the sense of an attorney representing a party in court, but in the sense of a government
official advancing the public interest in a lawsuit. Indeed, in most instances, a private attorney general is a
 22 private citizen represented by counsel in court. [emphasis added]

23
 24 As the underlying controversy on this lawsuit, the public distress, alarm and business disruption caused the
 25 “dirty bomb hoax” of 06/14/2017 (which impacted a dozen law enforcement agencies, the Port of Charleston and
 26 surrounding communities) this is a matter of public concern. It has been alleged that this sensationalized publicity
 27 stunt was orchestrated to increase the opportunities for economic growth for Goodman and his CSTT team mates.

1 The entire fraudulent publicity stunt is alleged to be an artifact of fraudulent messaging (for profit) that traversed the
2 interstate wires of the Internet.

3 The racketeering accusations against Goodman's and his CSTT team's on-going efforts to defraud
4 members of the public of credit card transaction via the wires of the interstate Internet demonstrate an on-going
5 public interest in this matter. These on-going efforts mimic the fraud perpetrated on the U.S. Coast Guard for the
6 purposes of gaining publicity and other pecuniary benefits.

7 **This is a public interest lawsuit.** It matters not if the Plaintiff has been personally injured by the
8 underlying controversy or is the undersigned is resident of South Carolina.

9

10 ***CLAIMS STATED AND RELIEF SOUGHT IN PLAINTIFF'S COMPLAINT***

11 In essence, filing a motion to dismiss alleges there is some sort of critical deficiency with the
12 plaintiff's complaint, the claims alleged in the complaint, or the actual procedure of how the lawsuit was
13 initiated and, correspondingly, requests that specific claims alleged or the entire lawsuit be dismissed.

14 Defendant Goodman apparently asserts is his so-called "motion" (unlabeled as such) that the Plaintiff has
15 failed to state any actionable claims in the Amended Complaint (Entry 5, 06/29/2018). "Plaintiff's claim must be
16 dismissed with prejudice because his legal claims are without merit". See Defendant's MEMORANDUM IN
17 SUPPORT OF MOTION TO DISMISS (Entry 9-1, 08/03/2018). This is the totality of Goodman's argument
18 concerning the issue of supposedly "failure to state a claim" as the heading of the MEMORANDUM (Entry 5,
19 06/29/2018) indicates.

20 A motion requesting dismissal based on failure to state a claim is alleging that under no circumstances
21 could the claim for relief be granted against the defending party. It is "only the extraordinary case in which a
22 dismissal is proper" for failure to state a claim. See United States v. City of Redwood City, 640 F.2d 963, 966
23 (9th Cir. 1981). A court may dismiss a complaint as a matter of law only if the complaint: (1) lacks a
24 cognizable legal theory; or (2) fails to contain sufficient facts to support a cognizable legal claim. Robertson v.
25 Dean Witter Reynolds, Inc., 749 F.2d 530, 534 (9th Cir. 1984).

26 Defendant's conclusory, vague and ambiguous statements in the so-called "motion" offer no support of his
27 argument or claim. Defendant's proposition is that the Court dismiss this action based on wild accusation of some
28

1 conspiracy involving the undersigned. NOTE: For the record the undersigned denies any and all allegations,
 2 insinuations and accusations made by Goodman in the MEMORANDUM (Entry 5, 06/29/2018).

3 Assuming *arguendo* that Goodman's malformed pleading is some type of **FRCP Rule 12(b)(6)** request
 4 then the “[c]ourts must consider the complaint in its entirety, as well as other sources courts ordinary examine when
 5 ruling on Rule 12(b)(6) motion to dismiss [.]” Dunn v. Castro, 621 F.3d 1196, 1206 n.6 (quoting Tellabs, Inc. v.
 6 Makor Issues & Rights, Ltd., 551 U.S. 308, 322 (2007). See also Magulta v. Samples, 375 F.3d 1269, 1274-75 (11th
 7 Cir. 2004) (when reviewing a motion to dismiss for failure to state a claim, courts should read the complaint in its
 8 entirety); 5 Wright & Miller, Federal practice and Procedure § 1286 (3d ed. 2004).

9 Usually when a court is asked to weigh a motion filed pursuant to Rule 12(b)(6) it is generally confined to
 10 the four corners of the pleadings. See Wilchombe v. TeeVee Toons, Inc. 555 F.3d 949, 959 (11th Cir. 2009).

11 Apparently the Defendant expects this Court to conduct his legal research by a legal review of the totality
 12 of the Amended Complaint (Entry 5, 06/29/2018) while simultaneously providing no legal support for the
 13 proposition that the Plaintiff has failed to state an actionable claim.

14 Consideration of the Amended Complaint (Entry 5, 06/29/2018) as a whole demonstrates that it meets the
 15 requirements established under the Federal Rules. “[A] complaint must contain sufficient factual matter ... to ‘state
 16 a claim for relief that is plausible on its face.’” Ashcroft v. Iqbal, 129 S.Ct. 1937, 1949 (2009) (quoting Bell
 17 Atlantic Corp. v. Twombly, 550 U.S. 544, 570 (2007)).

18 The Plaintiff's Amended Complaint (Entry 5, 06/29/2018) presents a detailed recitation of Defendant's
 19 alleged racketeering activities, violations of the **Computer Fraud and Abuse Act** (CFAA), attempts to defraud the
 20 U.S. government, issuance of threats that violate the **Terrorist Hoax Improvement Act**, etc. These recitations
 21 more than satisfy federal pleading requirements. A review of the entire Amended Complaint (Entry 5, 06/29/2018)
 22 demonstrates that in no way or manner has the Plaintiff upon mere legal conclusions but contains a detailed account
 23 of the Defendant's illegal practices which establish liability under the federal **RICO Act** (at a minimum).

24 “A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the
 25 reasonable inference that the defendant is liable for the misconduct alleged.” Ashcroft v. Iqbal, 566 U.S. 662, 678,
 26 129 S.Ct. 1937, 173 L.Ed.2d 868 (2009).

Under FRCP Rule 8(a)(2), a pleading must contain “‘ a short and plain statement of the claim showing that the pleader is entitled to relief’ in order to ‘give the defendant fair notice of what the ... claim is and grounds upon which it rests.’” Twombly, 550 U.S. at 555 (citations omitted). In Twombly, the U.S. Supreme Court explained that “[t]o survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’” Iqbal, 129 S. Ct. at 1949 (citation omitted).

As the Eleventh Circuit has explained, Twombly / Iqbal principles require that a complaint’s allegations be “enough to raise to relief above the speculative level.” Speaker v. U.S. Dep’t of Health and Human Services Centers for Disease Control and Prevention, 623 F.3d 1371, 1380 (11th Cir. 2010). Plaintiff has far exceed his responsibilities articulated by the Eleventh Circuit Twombly / Iqbal principles.

The federal rules only require that the plaintiff put the defendant on notice as to what the legal claim is and the grounds upon which the claim rests. Ascon Properties, Inc. v. Mobile Oil Co., 866 F.2d 1149, 115 (9th Cir. 1989).

The Defendant’s so-called “motion” is silent on all the matters that are required in such motions. In fact, the pleading (MEMORANDUM (Entry 9-1, 08/03/2018)) is little more than a Post-It Note type of response. A fair reading of the Defendant’s “motion” gives no inkling as to what legal standards are relied upon by Goodman.

The Defendant cannot and does not explicitly contend that the theories, facts and/or allegations presented in the Amended Complaint (Entry 5, 06/29/2018) are defective. Rather, Defendant makes stunningly overly broad conclusory assertions devoid of any concrete rationale that would to support the insinuations in the Defendant’s “motion”.

CONCLUSION

Defendant’s so-called “motion” (MEMORANDUM (Entry 9-1, 08/03/2018)) is defective and should be rejected as it fails to comply with **FRCP Rule 12(b)**. Nonetheless, if the Court elects to consider the motion it should be rejected as it only presents conclusory, vague and ambiguous statements that are devoid of legal argument and justification for such a heavy sanction as dismissal. Almost the entirety of the Defendant’s so-called “motion” contains unfounded, baseless, meritless and vexatious slurs, insinuations and slanderous allegations.

Defendant’s “motion” must be denied.

If the Court entertains the Defendant's "motion" then the Plaintiff should be allowed to amend the complaint by leave of the court. Where the defendant merely files a motion to dismiss for failure to state a claim without an answer, plaintiff then would be entitled to amend his complaint as a matter of right.

PRAYER

For the reasons described above Mr. Goodman's MEMORANDUM pleading (Doc. 9-1, 08/03/2018) should **denied** as it provides an insufficient defense, within a document that is redundant, immaterial, impertinent and scandalous in nature.

Dated this day of August 10, 2018



D. GEORGE SWEIGERT

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1 D. GEORGE SWEIGERT, C/O
2 GENERAL DELIVERY
2 MOUNT SHASTA, CALIF 96067

3 IN THE UNITED STATES DISTRICT COURT
4 FOR THE DISTRICT OF SOUTH CAROLINA

5 D. GEORGE SWEIGERT

Case No.: 2:18-cv-01633-RMG-BM

6 Plaintiff,

7 vs.

8 JASON GOODMAN

9 Defendant

10 CERTIFICATE OF SERVICE

11 CERTIFICATE OF SERVICE

12 On this day, August 10, 2018, I have caused to be placed into the U.S. Postal Service true copies of the
13 attached pleadings (with First Class postage affixed) to the following parties.

14 Clerk of the Court
15 U.S. District Court
16 Matthew J. Perry, Jr. Courthouse
17 901 Richland Street
18 Columbia, South Carolina 29201

19 Jason Goodman
20 252 7th Avenue #6S
21 New York, NY 10001

22 I hereby attest under the penalties of perjury that the foregoing is true and accurate.

23 
24 D. GEORGE SWEIGERT